

LEGISLATIVE SUMMARY OF EDUCATION-RELATED ACTS FOR 2000

This document provides a brief review of legislation that passed during the second year of the 1999-2000 biennial session that may be of interest to the education community.

The following information is listed according to the act number. In parentheses is the number of the bill as it originated in the House or Senate. Clicking on the link will take you to the appropriate bill on the Vermont Legislative Web site (<http://www.leg.state.vt.us>).

[Act #64 \(H. 255\): An Act Relating to the Requirement of 30 or More Signatures on Union School Board Petitions](#)

This Act makes clear that the Australian ballot nominating process for union school board members is the same at the time of establishment of the union as it is for ongoing board elections thereafter. While this was assumed before, the language has been added to harmonize the two provisions. Also, nominating petitions will now require at least 30 voters or one percent of the legal voters in the local district, whichever is less. This process will now be identical to that of the Australian ballot nominating process for local school district directors. The Secretary of State has mailed further information about this new law to each school district clerk.

[Act #74 \(H.234\): An Act Relating to Student Members of the State Board of Education](#)

This Act expands the Vermont State Board of Education from seven to ten members. The three additional members will be appointed by the Governor. One new member will be an adult, appointed for a six-year term. Two students shall be appointed by the Governor for a transition year after an open application process. One student shall be appointed for a one-year term and the other for a two-year term. The student serving the one-year term shall be a full voting member. The student holding the two-year term shall become a voting member in the second year of his or her term. Thereafter, annually the Governor shall appoint one student for a two-year term to replace the departing student State Board member.

[Act #77 \(H. 620\): An Act Relating to School District Purchase of Items Through the State Purchasing Process](#)

This act amends the public bids section of law to make clear that school boards may resort to the state purchasing system without having to undergo any further public bidding and it clearly authorizes, in the context of school nutrition programs, use of any federally-permitted bid or request for proposal process notwithstanding any Vermont public bid statute to the contrary.

[Act #108 \(H. 825\): An Act to Clarify and Coordinate Department of Education Procedures](#)

This Act addresses the following issues related to school finance:

- It calls for uniform reporting of data used to calculate financial aid.
- It makes clear the statute now providing extra assistance to Brattleboro area communities with significant numbers of deaf students applies to any community, regardless of where located in Vermont, that hosts a program by the Vermont Center for the Deaf and Hard of Hearing
- A school district spending less than the general state support grant amount shall only receive an amount equal to what it spends.

- The Commissioner of Education is to make a recommendation to the General Assembly on or before December 15 of the appropriate level of the general state support grant for the next fiscal year.
- Superintendents are charged with the responsibility for submitting school district-level budget data on forms prescribed by the Commissioner of Education.
- Provision is made for correcting data submitted to the Department of Education, as follows:
 - A clerical mistake is to be reported at once. Mistakes due to new information or changed circumstances, as a general matter, are to be reconciled in the next fiscal year. The Commissioner of Education is given the final decision as to the nature of the error. A January 15 cut-off date is established for submittal of data regarding the general state support grant, transportation aid, and the small schools support grant for the fiscal year beginning July 1.
 - With respect to local budget data, the Commissioner may use data submitted up to June 15 to calculate the amounts due each school district under 16 V.S.A. §4027.
 - Errors in data reported later than the above dates shall be used to adjust payments to or from the education fund in the next fiscal year. However, the Commissioner may not use any such data to recalculate the equalized pupil ratio or the equalized yield. No recalculations shall be made regarding data corrections over three years old.

Act #110 (H. 595): An Act Relating to Motor Vehicles

This Act clarifies that a motor vehicle designed to transport fewer than 11 persons is considered a Type II school bus but needs only two warning lights and an identification sign. It also allows any school bus other than a Type I school bus that is not being used on a fixed route to be a color other than school bus yellow.

Act #113 (H. 270): An Act Relating to Supporting Safe Learning Environments in Vermont Schools

This Act, which during the session was known as the "Safe Schools Bill," contains, among others, the following provisions:

- The age of compulsory school attendance is lowered from age seven to six.
- There are a number of new provisions regarding school discipline including:
 - School boards must adopt comprehensive discipline plans that include more than the standard discipline policies. Such plans must also include the school's approach to classroom management; how the school will provide information and training on conflict resolution; procedures for informing students and parents about the discipline policies and notifying and working with parents about student misconduct; how to respond to significant disruptions such as bomb threats; how staff will receive training on maintaining a safe, orderly civil and positive learning environment; and a description of behaviors on and off school grounds that constitute misconduct, including harassment and hazing.
 - The definitions of suspension and expulsion have been changed. A student may be suspended for up to 10 school days or expelled for up to the remainder of a school year or up to 90 school days, whichever is longer. The superintendent or principal may suspend a student but the approval of the school board is needed to expel a student.

- The law has now been clarified that a student can be disciplined for misconduct off school grounds if the misconduct directly harms the welfare of the school. Examples might include calling in a bomb threat, selling drugs, assaulting a staff member or another student.
- School boards and school officials are authorized and encouraged to provide alternative educational services to students during such periods of suspension or expulsion.
- A school to which a student under suspension or expulsion applies may accept the student but honor the discipline imposed by the previous school.
- The law is clarified that a parent of a student who is under suspension or expulsion is not subject to the laws on compulsory student attendance unless the terms of the suspension or expulsion require continued attendance in some form.
- If a school district does not maintain a school but rather pays tuition on behalf of its students, it is not required, but may, pay tuition on behalf of an expelled student to another school.
- The criminal laws regarding possession of a weapon in a school building have been amended to create two separate offenses--knowing possession of a weapon in a school building or on a school bus, and knowing possession of a weapon on any school property with the intent to injure another person. The definition of "dangerous and deadly weapon" has been refined and the penalties for committing the offense significantly increased. Existing law permitted only the school board to allow exceptions to the possession of a weapon in a school building for instructional or other specific purposes. The new law permits, if so delegated by the school board, a superintendent or principal to make such decisions.
- The Commissioner of Education is charged with developing and delivering training to school personnel on prevention, identification, and remediation of disruptive student behaviors.
- Educator preparation and professional development programs are to be strengthened on dealing with students with challenging and disruptive behaviors.
- State officials are charged with the responsibility to reduce or eliminate communications barriers to state and local agencies sharing information that would assist in either protecting students from, or providing proper interventions to, dangerous or disruptive students.
- The Commissioner of Education is charged with the responsibility of assisting school districts in developing model plans and strategies regarding discipline and student behavior, weapons on school grounds and confidentiality of records.
- The Commissioner of Education is to work with the education community on a common definition of "truancy" and of "dropout" and then collect data on these two phenomena.
- The Commissioner of Education is to conduct a research based study on "alternative learning environments" with the goal of making recommendations on whether new standards and funding mechanisms should be developed for these programs that are springing up around Vermont.
- A plan is to be developed to decriminalize truancy and allow local or regional policies on truancy interventions with court intervention as a last resort. The plan is to be submitted by January.
- The Commissioner of Education is directed to work with the education community to gather data on the use of restrictive behavioral interventions in Vermont schools.

- A provision was added to this bill in its late stage to add to the law on penalties for false alarms.
- Added is the suspension of motor vehicle operator's licenses or the delay in eligibility for such a license for underage students.
- Funds are appropriated in the following amounts: \$10,000 to support the work of the new Safe Schools Coordinator at the Department of Education; \$30,000 for a study of educational outcomes for students in state custody; \$315,000 to add capacity for residential care and programs for youth who suffer from alcohol abuse; and \$50,000 to fund the study on alternative learning environments.

Act #117 (H. 629): An Act to Strengthen the Capacity of Vermont's Education System to Meet the Educational Needs of All Vermont Students

This Act focuses on students in the entire educational system, not just the special education system, and addresses containment of special education costs while at the same time continuing to deliver appropriate services that meet the needs of Vermont students. It includes, among other items, the following provisions:

- Assignment of responsibility for developing and maintaining the educational support system to either the superintendent or principal.
- Requirement for an annual report to the Commissioner of Education on the status of each school's educational support system and a description and justification of how Medicaid funds were used.
- Amendment to the definition in state statute of "special education" to clarify that Vermont requires no more in services than is required under federal law.
- Specification of the conditions under which IEP teams can take costs into consideration when selecting services for a student with disabilities
- Expansion of the Commissioner of Education's annual report on special education costs to include the rate of growth or decrease in costs, outcomes for students, availability of special education staff, consistency of implementation statewide, status of educational support systems.
- Development and implementation by the Commissioner of Education of a two-year plan to contain special education costs while continuing to meet the needs of all Vermont students by increasing the capacity of general education to meet the needs of students outside of special education, using cost-effective practices and operating special education programs across the state consistently and within federal requirements. The plan includes:
 - Formation of a partnership with higher education to improve teacher preparation and professional development.
 - Strengthening the educational support systems around the state by focusing on preschool through fourth grade literacy, and prevention and intervention for students with emotional and behavioral difficulties.
 - Support for special education teachers and administrators and help in using cost-effective practices by working with higher education to increase the availability of special education administrators, teachers and related services providers; providing training opportunities for teachers and para-professionals; providing legal support, information and training to avoid conflict and assist in making cost-effective legal and procedural decisions; employing consultants with expertise in particular disability areas; providing guidance in the completion of annual service

plans; and developing, with the University of Vermont, a decision-making model for IEP teams to use.

- Efforts to make special education programs consistently implemented and cost-effective statewide by studying IEPs in the most common disability areas and providing schools data on the range of costs associated therewith; increasing the capacity to audit and monitor special education programs statewide; training to school district leaders on cost-effective practices; and more clearly defining eligibility rules.
- Development of recommendations to change the special education funding formula to make it more sustainable while at the same time not simply shifting costs to local taxpayers.
- Drafting and submittal of annual reports to the legislature on progress made toward strengthening the educational support system, containing special education costs, and improving outcomes for students with disabilities.
- Assisting school districts with unusual or unexpected costs by allocation of up to two percent of appropriations for special education expenditures assuming the districts requesting the funds have submitted Medicaid bills for reimbursement for at least 85 percent of eligible students.
- Establishment of statewide targets in fiscal years 2002, 2003 and 2004 for limiting increases in total special education expenditures. Special education appropriations shall be based on these targets.
- Repeal of the caps on special education expenditures enacted as part of Act 71 in order to allow the above-mentioned plan time to work.
- Conduct of a study by the Secretary of Administration and the Joint Fiscal Office, along with a variety of others, on how interagency services could assist students with disabilities under the age of twenty-two.
- Although not expressly part of this Act, the Appropriations Act contains significant funding to carry out the provisions of the above-mentioned plan.

Act #120 (S. 76): An Act Related to Hazing and Harassment

This legislation does essentially five things:

- It addresses school (public and independent schools at the elementary and secondary level as well as some post-secondary institutions) policies on hazing and harassment;
- It creates a new school quality standard by which schools will be judged with respect to a safe, civil, orderly and positive learning environment;
- It permits the Commissioner and State Board of Education to intervene if there are serious problems in a particular school without having to wait four years as would otherwise be required under the school quality process;
- It makes hazing unlawful with a civil, rather than criminal, penalty of up to \$5,000.00; and
- It requires the Commissioner annually to report on, and therefore school authorities to report to the Commissioner on, hazing and harassment complaints and the response thereto.

With respect to hazing policies, school boards (including boards of independent schools) must adopt and enforce such policies by August 1, 2001. School board harassment policies also must be updated, if necessary, by that same date. The new law spells out the definition of hazing and

the minimum requirements for hazing policies. I am charged with disseminating model policies by January 1, 2001. I am also charged with providing each school district a copy of the Act, a summary of the Act, and answers to frequently asked questions on hazing and harassment. You should receive this shortly.

With respect to the school quality standards, school boards should also be aware that students have been added to the list of individuals to be included in the annual action planning process. Further, the annual update of the action plan must address efforts to maintain "a safe, orderly, civil and positive learning environment which is free from harassment, hazing and bullying."

Act #121 (S. 146): An Act Relating to a Vermont Independent School Financing Authority

This Act assists certain independent schools in achieving a more favorable bond rating for capital projects and could, therefore, result in lower tuition rates for sending school districts. Eligible independent schools are those that serve as the public high school of the region and have a significant history of meeting fiscal obligations. The independent schools likely qualifying are Lyndon Institute, Burr and Burton Academy, Thetford Academy, St. Johnsbury Academy, and the Austine School for the Deaf and Hard of Hearing.

Act #124 (S. 314): An Act Relating to Internet Crimes

This Act adds language to statute addressing the transmission of false public alarms which include bomb threats. Bomb threats made over the Internet, or by other means of electronic transmission, are now clearly punishable criminal offenses.

Act #125 (H. 192): An Act Relating to Toxic Materials and Indoor Air Quality in Vermont Public Schools

This Act establishes the goal of having 50% of Vermont schools qualify for an environmental health certification by January of 2005. It directs the Department of Health, with other state agencies, including Education, to develop a web-site on various items to assist schools in reaching the goal of good indoor air quality.

These agencies shall also develop and distribute model policies to all schools by July 1, 2001, in addition to the Department of Education distributing a model school environmental health management plan to Vermont schools.

A position is created in the Department of Health to assist with these new efforts. An advisory panel on implementation of the Act is created and includes representation from, among other groups, superintendents, school board members, principals, teachers, and school nurses. No new requirements are placed on school boards or school officials but these entities and individuals are encouraged to use the available information and assistance to improve indoor air quality in Vermont schools.

Act #140 (H. 97): An Act Relating to a Graduated Drivers License Program

This Act first creates new and heightened requirements to obtain a junior operator's license for 16- and 17-year olds. New processes and standards have been included to "recall" a learner's permit or junior operator's license. It also places significant restrictions on who may ride with a person holding a learner's permit or junior operator's license.

The Act creates a Driver's Education Grants program established for the purpose of providing increased availability and quality of programs offered in Vermont public schools. The program,

among other items, addresses and encourages parental involvement, increased exposure to nighttime driving and diverse weather conditions, more practice time behind the wheel, as well as effective approaches in reducing alcohol abuse among students. \$250,000 is appropriated to the Commissioner of Education to be awarded to Vermont public schools. Grants are limited to no more than \$12,500 per school. Grant applications for the first round of awards are to be submitted by July 1, 2000. Second round applications are to be submitted by November 1, 2000.

Further, the Act requires the Commissioners of Education and Motor Vehicles to make recommendations to the legislature on enhancement of driver education funding and to design and implement a new curriculum to improve Vermont's driver education programs.

Act #148 (H.850): An Act Relating to Capital Appropriations and State Bonding

This Act, among other things, provides the funding for capital construction aid. This year, the Act provided \$9 million for that purpose. In addition, numerous other education-related grants and substantive law provisions are contained in the Act. Some of the more significant include:

- A study of the establishment of a high school or a middle school for the Champlain island communities.
- Appropriations for capital improvements to the Austine School in Brattleboro and the Baird Center in Burlington.

Funds to further study the development of career centers in Newport and Chittenden County. A number of conditions are placed on these efforts.

- Validation of a meeting held in Winooski to incur bonded indebtedness for building improvements.
- Authorization of the Vermont Department of Buildings and General Services (BGS) to be responsible for the design, construction or purchases of new buildings or additions to be used as a technical center. The Commissioners of Education and BGS are charged with adopting standards for technical center facilities by January 15, 2001.
- The threshold for pre-qualifying bidders for school construction contracts was raised from \$250,000.00 to \$500,000.00.
- The Department of BGS is charged with providing recommendations concerning qualified bidders in school construction pre-qualification procedures.
- The Commissioners of Education and BGS are charged with making recommendations on a more consistent approach to funding construction at the Austine School in Brattleboro.
- The warning requirements for municipal meetings, including school district meetings, have been amended slightly on the subject of publishing the warning in a newspaper of general circulation at least five days before the meeting. There is an existing exception to this requirement where the warning is included in the town report and that report is mailed or otherwise distributed to the voters at least ten days before the meeting. The amendment makes the exception to the publication requirement apply where the warning is included in the town report or otherwise distributed to all postal patrons at least ten days before the meeting.
- Construction aid is authorized for the school districts of Concord, Highgate and Sheldon, notwithstanding the fact that they did not follow all the required procedures.

Act #150 (S. 203): An Act Establishing Public School Choice in Grades 9-12

This Act creates a system of public school choice for students in grades 9 through 12 by July 1, 2002. It applies only to school districts that maintain high schools. Each school district, unless exempted by the Commissioner of Education (because it can demonstrate that "participation in a public high school choice region would adversely affect students in its high school"), must enter into an agreement with at least one other high school district to form a "choice region." There is no limit to the number of regions to which a school district may belong. These regions may make their own agreements on the local level as to how they will operate and, except as to special and technical education students, whether any money will change hands. In the absence of any agreement as to the procedures to be followed in accepting students, the law provides a "default mechanism."

School districts define their own capacity to accept choice students and may further limit the number of choice students transferring from their high school within percentages specified in the law. If any of the above results in too many students for too few open choice slots, the sending or receiving school, as the case may be, must establish a non-discriminatory lottery system to select which students may participate. If a student is eligible for special education, the receiving school is responsible for carrying out the student's IEP that is developed by the sending school district. The receiving district is entitled to notice of and participation in IEP meetings. Transportation of choice students is not required but superintendents must establish a clearinghouse for families needing information on transportation options.

The Commissioner of Education must provide technical assistance in developing the above-mentioned choice region agreements. The Commissioner annually must report on implementation of this Act and after five years must submit a significant report with recommendations on the choice system generally. The law sunsets in 2007.

Act #151 (S.200): An Act Relating to Fingerprinting and Criminal History Records

This Act mostly requires fingerprinting of criminal defendants in felony and fugitive from justice cases and permits fingerprinting of defendants who are arrested for misdemeanors. However, school district officials should be especially interested in this Act for two reasons. First, it limits the amount a law enforcement agency may charge for taking fingerprints (\$15.00) and prohibits any charges for retaking fingerprints where the previous prints were deemed unclassifiable.

Second, the Act permits the Vermont Crime Information Center (VCIC) to disseminate Vermont and out-of-state "criminal history records" on prospective employees and volunteers to requesting qualified employers including, as we understand it, school district officials. This may be accomplished where a prospective employee or volunteer, who has given written authorization, has been offered employment or a volunteer position conditioned on the record check. VCIC will provide the release form for the person to sign which asks for the person's name, date of birth, and place of birth. This law has no real applicability with respect to prospective school district employees because existing law (16 V.S.A. Subchapter 4) already requires schools to obtain fingerprint-supported criminal background information on prospective employees. Its real significance is with respect to volunteers. School district officials should be aware that such a search will not yield the same degree of results as would a fingerprint-supported search. Nonetheless, it has the potential to provide more information on prospective volunteers than is currently available. The fee for providing the criminal history record is \$10.00 although there may be a surcharge if another jurisdiction charges for a record check.

The Commissioner of Public Safety and the Secretary of the Agency of Human Services are required to report to the legislature on providing even broader access to criminal records of those who work with "vulnerable classes" of persons, including children. The report will address a mechanism for assisting organizations working with vulnerable classes of persons with the funding of record checks.

Act #152 (H.842): An Act Making Appropriations for the Support of Government

The Appropriations Act provides the funding for state and local government. In addition to the amounts appropriated for the Department of Education and local school districts through the various funding formulae (Act 60, special education, technical education, small schools, driver education, etc.), the Appropriations Act contains the following provisions:

- Continuation of funding for technical education pilot projects.
- Continuation of funding for the special education fiscal review panel
- Funds to make the Coventry School District whole for underpayments due to errors in reporting financial and student data.
- Extending the small schools grant to the new Rivendell Interstate School District in its first year.
- As mentioned above in connection with Act 117, funds for special education cost containment efforts.
- A study of the school construction aid formula to determine whether the existing formula is sustainable and whether the statutory prioritization system works.
- Funds are allocated for FY 2001 so that the total statewide average education grant per equalized pupil is \$5,479.00 and the guaranteed yield is \$40.00.
- Funds are allocated so as to realize an estimated yield of \$40.00 in FY2002. The Commissioner of Education is prohibited from setting a yield below \$39.00.
- The "equalized yield" is now referred to simply as the "yield." The yield must be set by the Commissioner on September 15 for the next fiscal year.
- Funds are appropriated to be used for school business manager computer equipment, school assessment and school action plan development assistance.
- Various small grants are awarded for such purposes as civic education, debate and forensic speaking programs, holocaust education programs, travel expenses for a school band, and a "Coming Home" project.
- Surplus funds are dedicated to future school construction needs.
- A "Tobacco Prevention, Cessation and Control Board" is created with \$1.2 million appropriated for school-based programs.
- A new audit requirement is added to 16 V.S.A. §563(17). Under existing law, each school board must employ a public accountant every three years to audit the financial statements of the school district. With this amendment, such accountants must also audit the "average daily membership count submitted by the district to the department of education."

Act #158 (H. 688): An Act Relating to State Employees' and Teachers' Retirement Systems

This Act has the following four consequences for the education community:

- It enables participants in the teacher retirement system with a minimum of 25 years of service to purchase up to another 5 years of service toward retirement.

- It extends the number of years participants in the teacher retirement system can credit service in the military, Peace Corps, Vista or Cadet Nurse Corps from 3 to 5 years.
- It reduces the time for vesting in the system from 10 to 5 years both for disability retirement and normal retirement purposes. This puts the teachers' retirement system on a par with state employees.
- It permits eligible teachers to be employed and compensated up to 60% rather than 50% of the average teachers' compensation and still receive a full retirement allowance from the system.
- This should assist school districts make more and better use of retired teachers.